

IN THE MATTER OF
THE APPLICATION OF
ROBERT A. COHEN
FOR A MORTGAGE ORIGINATOR
LICENSE

BEFORE THE COMMISSIONER
OF
FINANCIAL REGULATION
Case No. DFR-EU-2007-076

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STATEMENT OF THE CASE

The hearing of the above captioned matter was held on September 20, 2007, and pursuant to Financial Institutions Article ("FI"), § 2-103 Annotated Code of Maryland was heard by the Deputy Commissioner of Financial Regulation, Joseph E. Rooney ("Deputy Commissioner"). This matter was scheduled for a hearing as a result of a decision by the Office of the Commissioner pursuant to FI § 11-607(e), to deny the Applicant, Robert A. Cohen, a mortgage originator license [Comm'r Exhibit # 1]. Applicant, having been notified of the date, time, place and nature of the hearing in accordance with FI § 11-616, applicable Regulations and the Administrative Procedure Act (Md. St. Govt. Code Ann. ("SG"), Title 10, Subtitle 2), failed to appear [Comm'r Exhibit # 3]. Testimony was presented that indicates that the Commissioner sent timely notice of the hearing to Applicant by regular mail and certified mail return receipt requested. Applicant signed for the certified mail notice on June 14, 2007. The denial was based on the following: a) Applicant's failure to satisfy the Commissioner that the Applicant is of good moral character and has the general fitness to warrant the belief that the Applicant will act as a mortgage originator in a lawful, honest, fair and efficient manner as required by FI § 11-605(a)(2); and b) a prior felony or misdemeanor conviction of Applicant that is directly related to Applicant's fitness and qualification to act as a mortgage originator, in violation of FI §§ 11-605(b) and 11-615(a)(2). Documentation reviewed by the Office

of the Commissioner reflects that in 2003, Applicant was convicted of felony mail fraud [Comm'r Exhibit # 4].

Hope Miller, Assistant Attorney General, appeared as presenter of evidence on behalf of the Commissioner. Thomas L. Gounaris, Assistant Attorney General served as counsel to the Commissioner. The hearing proceeded in Applicant's absence pursuant to COMAR § 09.01.02.09. The proceedings were electronically recorded.

FINDINGS OF FACT

From the exhibits presented, the Deputy Commissioner finds the relevant facts to be these:

1. On or about April 30, 2007, Applicant's application for a mortgage originator license was denied [Comm'r Exhibit # 1].

2. On or about June 16, 2003, Applicant was convicted by the United States District Court for the District of Maryland of felony mail fraud in violation of 18 U.S.C. 1341. Applicant was sentenced to twenty-four months confinement, and three years supervised probation [Comm'r Exhibits # 4].

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Deputy Commissioner concludes as a matter of law under FI § 11-605 that the Applicant should not be granted a mortgage originator license at this time. To qualify for a mortgage originator license, an applicant must satisfy the Commissioner that the applicant is of "good moral character and has general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair, and efficient manner". FI § 11-605(a)(2). The Commissioner may also deny an application for any reason that a license may be revoked or suspended under either the Mortgage Originator Law (FI § 11-601 *et seq.*) or the Mortgage Lender

Law (FI § 11-501 *et seq.*) FI § 11-607(e)(2). Conviction under the laws of the United States or any state of a felony or misdemeanor that is directly related to the fitness and qualification of an individual to act as a mortgage originator is one such ground. FI § 11-615(a)(2).

When denying a license because of a criminal conviction, the Commissioner is required to consider the following: (1) the nature of the crime; (2) the relationship of the crime to the activities authorized by the license; (3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the licensee or applicant to engage in the mortgage origination business; (4) the length of time since the conviction; and (5) the behavior and activities of the applicant since the conviction.

In this case, the crime of which Applicant was convicted is a serious one, involving dishonesty; and without the benefit of any testimony regarding the circumstances that surrounded it, the Deputy Commissioner cannot conclude that the public would be well served by granting Applicant a mortgage originator license at this time. As more fully set forth in Comm'r Exhibit # 4, the fraudulent scheme devised and carried out by Applicant involved residential mortgage loans. Therefore it is difficult to envision a crime that would be more directly related to mortgage origination and the mortgage originator license. It has been only four and one-half years since Applicant's conviction, and no evidence was presented regarding his behavior since his conviction.

There being no evidence to the contrary, the Deputy Commissioner must conclude, based upon the evidence before him, Applicant is not presently qualified to be granted a mortgage originator license.

FINAL ORDER

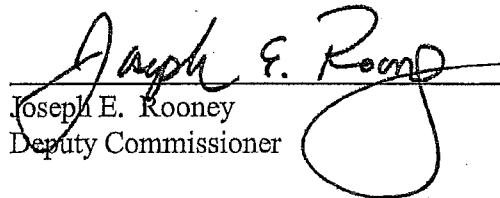
In consideration of the foregoing Findings of Fact and Conclusions of Law, it is this 20th

day of September, 2007, hereby **ORDERED** that:

Applicant, Robert A. Cohen, is **DENIED** a mortgage originator license, pursuant to FI § 11-607(e).

Pursuant to State Govt. Art., Section 10-222, any party who is aggrieved by the Commissioner's decision, may file a petition for judicial review with the Circuit Court for the county where any party resides or has a principal place of business. Such petition must be filed within 30 days after Applicant's receipt of this Order (Md. Rule 7-203). The filing of a petition for judicial review does not automatically stay the enforcement of the Final Order.

COMMISSIONER OF FINANCIAL REGULATION



Joseph E. Rooney
Deputy Commissioner